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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR        | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|-----------------------------|---------------------|------------------|
| 10/565,001  | 01/19/2006  | Laurent Labrousse           | 284320US0PCT        | 5146             |
| 22850 7590 09/29/2009<br>OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.<br>1940 DUKE STREET<br>ALEXANDRIA, VA 22314 |             |                             |                     |                  |
| EXAMINER<br>MCDONALD, RODNEY GLENN  |             |                             |                     |                  |
| ART UNIT<br>1795  |             | PAPER NUMBER                |                     |                  |
| NOTIFICATION DATE<br>09/29/2009   |             | DELIVERY MODE<br>ELECTRONIC |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/565,001

**Applicant(s)**

LABROUSSE ET AL.

**Examiner**

Rodney G. McDonald

**Art Unit**

1795

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 15, 2009 has been entered.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 is indefinite because the phrase "conducting crystallization" seems to conflict with the phrase "depositing titanium dioxide in anatase form" because the titanium dioxide is already deposited in anatase form and it is already crystallized in anatase form. Clarification is requested.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Finley (U.S. PG PUB 2002/0045073) in view of Honjo et al. (EP 1 182 174 A1).

Regarding claim 21, Finley teach a method of preparing a material exhibiting photocatalytic properties comprising a coating at least partially crystallized titanium dioxide. (Paragraph 0027) Finley teach depositing titanium dioxide in anatase form on at least a first face of a glass or glass ceramic substrate by cathode sputtering. In Fig. 3 the titanium dioxide was deposited on a zirconium film and anatase titanium dioxide was deposited. (Paragraph 0023, 0038, Fig. 3, Paragraph 0085, Table II) Finley teach providing beforehand one or more functional multilayers. (Paragraphs 0031-0036) Finley teach depositing on at least a second face of the substrate one or more functional solar control or low emissive multilayers, one or more solar control or low emissive functional layers, or a combination thereof by sputtering. (Paragraph 0031, 0032, 0035, 0036) Finley suggests subjecting the substrate to one or more post-coating

heating operations such as annealing or tempering. The one or more heating steps read on Applicant's two heating steps with one of the steps being a crystallization step. (Paragraph 0039) Finley suggests heating the substrate to a temperature of greater than 630 degrees C to promote crystallization. From Tables IV the higher the temperature treatment the more anatase the film. (Paragraph 0038, Paragraph 0045, Table 1, Table IV (Example 56 636 degrees C), Table V)

The differences between Finley and the present claims is that the temperature of the heating step is not discussed (Claim 21) and the heating step further including bending is not discussed (Claim 22).

Regarding claims 21, 22, Finley already suggests one or more post coating heating operations. One if not both promote crystallization. (See Finley discussed above) Honjo et al. teach that the temperature for a heating step that can include bending and/or tempering includes a temperature from 560 to 700 degrees C. (Honjo et al. Paragraph 0013)

The motivation for utilizing the features of Honjo et al. is that it allows for bending the substrate. (See Paragraph 0013)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Finley et al. by utilizing the features of Hondo et al. because it allows for forming a bent substrate.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Finley et al. in view of Hondo et al. as applied to claims 21 and 22 above, and further in view of Krisko et al. (U.S. Pat. 6,964,731).

The difference not yet discussed is the deposition on the at least first and second faces being carried out in line simultaneously or almost simultaneously along substantially identical directions and in opposite senses is not discussed (Claim 23).

Regarding claim 23, Krisko et al. teach in Fig. 5 sputtering in line to form coatings on both faces of the substrate. (See Fig. 5)

The motivation for utilizing the features of Krisko et al. is that it allows for forming coatings on both sides of the substrate. (Column 12 lines 33-36)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized the features of Krisko et al. because it allows for forming coatings on both sides of the substrate.

**REMARKS:**

The Examiner has cited a new reference to Finley. Finley teach that one or more post coating heating operations can promote crystallization of the film. The heating promotes anatase production of titanium dioxide. Finley suggest heating via annealing and additional tempering. It is the Examiner's position that the one or more post coating heating step reads on Applicants two heating steps. Both heating steps would result in crystallization of the coating. Finley suggest heating in up to 650 degrees C. Hondo et al. suggest that a bending and tempering operation can be preformed 560 to 700 degrees C.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney G. McDonald whose telephone number is 571-272-1340. The examiner can normally be reached on M-Th with every Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X. Nguyen can be reached on 571-272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rodney G. McDonald/  
Primary Examiner, Art Unit 1795

Rodney G. McDonald  
Primary Examiner  
Art Unit 1795

RM  
September 22, 2009